Learning Facilities

Minister's Symposium on Schools Implementation Plan

Recommendation Subcommittee Reports

Alberta
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Use of School Reserves Subcommittee Report

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Use of School Reserves

SUBCOMMITTEE STAKEHOLDER REPRESENTATION

- Alberta Association of Municipal Districts and Counties
- Alberta Infrastructure
- Alberta Municipal Affairs
- Alberta School Boards Association
- Alberta Urban Municipalities Association
- Calgary Board of Education
- Calgary RCSSD
- City of Calgary
- City of Edmonton
- Edmonton Catholic Schools
- Edmonton Federation of Community Leagues
- Edmonton Public Schools
- Urban Development Institute

Subcommittee Chair/External Consultant: Mike Davenport, Davenport and Associates

Learning Facilities Branch, Alberta Infrastructure

Project Director: Doug Ramsey, Alberta Infrastructure

Use of School Reserves

EXECUTIVE SUMMARY

This subcommittee was formed from knowledgeable people from varying and diverse stakeholder organizations with a vested interest in school reserves and school facilities.

It began its work with the development the basic principle that states reserves are provided once and if disposed of should be replaced. This was found to be especially true of urban situations. The committee realized that this principal may cause some difficulty in rural areas where breathing spaces are readily available and cash in lieu is often used for recreational facilities.

The subcommittee found that the definition of "school authority purposes" as mentioned in the MGA needed further definition. Starting with Alberta Learning's vision of life-long learning and what is stated in the *School Act* the subcommittee defined **"school authority purposes"** as a use or activity, permitted under the "School Act" and/or endorsed by a school authority, that provides education and non-instructional programs to/for students of a school authority and includes ancillary uses or activities that are primarily intended to provide life-long learning.

It then addressed P3s on Reserve Lands. It arrived at four points;

- P3 projects allowable under the MGA are allowed provided they don't give equity interest other than to a school authority or a municipality.
- If a P3 project is constructed for an allowable use under the MGA but is planned for a subsequent non-allowable use the reserve land must be disposed of prior to the non-allowable use.
- A non-allowable use can only proceed with a disposition (temporary or permanent) of the land with appropriate compensation to the reserve fund.
- P3s must comply with Municipal Land Use By Laws and obtain any planning approvals necessary.

The subcommittee examined the use of surplus school buildings on reserves. It felt that reserve land could be leased based on two principals.

- The range of use is controlled by the municipality under its land use by laws.
- Payment should be made to the reserve fund based on market value.

It further suggests that the MGA should be amended to allow a school authority and/or municipality to:

- Temporarily suspend the reserve status of the portion of a reserve containing the footprint of the building and parking areas for 25 years with no provisions for automatic renewal. Use of school building

EXECUTIVE SUMMARY (Cont'd)

envelope must comply with Municipal Land Use By Laws and obtain any planning approvals necessary.

- Lease such lands at market value and building provided a portion to the lease is paid to the reserve fund.
- A temporary disposition may be initiated by a school authority subject to municipal planning approvals.

Use of School Reserves

INTRODUCTION

The mandate of this subcommittee was to examine the expansion of the use of school reserves beyond the current legislation. In other words, can we better use school reserves and if so, how can we accomplish more effective use?

The Use of School Reserve Subcommittee agreed with the Minister's Symposium on Schools delegates that the community and school board should identify appropriate uses and partners on reserve land and in school facilities.

The subcommittee was made up of representatives of city planners; school jurisdiction; medium sized municipalities; rural municipalities, the Urban Development Institute, the Alberta School Trustee's Association, the Edmonton Federation of Community Leagues, Alberta Municipal Affairs and Alberta Infrastructure. The subcommittee worked on a consensus model and found universal agreement on most of the principles addressed here in. It should be pointed out that the subcommittee's mandate was not to look at topics such as P3s except as they pertain to school/municipal reserves.

The Municipal Government Act (MGA) enables municipalities and school authorities to enter into an agreement respecting the allocation of reserves. The Use of School Reserve Subcommittee places an increasing reliance on the use of such agreements to manage municipal school board relations with respect to reserve lands. Difficulties can be encountered when entering into or attempting to resolve differences within these agreements. Given the importance associated with an effective joint use agreement, the Use of School Reserves Subcommittee urges the province to consider additional regulatory or legislative means to encourage the adoption of joint use agreements and a means to resolve disputes such as through a right of appeal to the Municipal Government Board.

Note: The MGA provides that reserves be allocated between the municipality and school authorities either in accordance with an agreement or to each according to their needs. The Act also provides that reserves may be designated as municipal reserve (MR), school reserve (SR) or municipal and school reserve (MSR). The Act does not require reserves to be designated SR in order for it to be used by a school authority. Moreover, a school authority that owns reserve can only dispose of it through the municipality. For these reasons the committee uses the term "reserve" without distinguishing between MR, SR and MSR.

SUBCOMMITTEE PRINCIPLES

The subcommittee does not support the expansion of the range of use that reserve land can be used for except as noted below. The subcommittee was concerned that if reserve land was allowed to be used for a wider range of public uses, for example health facilities, fire halls, etc. The long term result would be less open space for the community. The subcommittee viewed examples of what happened between 1953 and 1963 when reserve land could be allocated for public purposes and saw examples of the land being used for a wide variety of non open space purposes.

- An abiding principle proposed by municipal planners and supported by the entire subcommittee is as follows: Reserve Land is only provided once. The subdivision process only allows reserve land to be taken at the initial subdivision of the parcel. Reserve land is the primary mechanism to create open space in urban areas. If the reserve land is lost by taking cash in lieu of land and then using it to build facilities means that once that building life cycle is over the asset is lost.

- Therefore, the subcommittee would prefer to see a change in the MGA to restrict the use of reserve funds to the purchase of lands. This holds true for urban situations and areas that are becoming more urbanized.

- The task force recognizes that such a provision would create problems for rural jurisdictions that have traditionally used reserve funds to fund recreation facilities. The flexibility for rural areas needs to remain in rural areas. This needs to be accommodated in any such change to the MGA.

The principal is simple: if you lose reserve lands you lose the "lungs of the community" and if you are going to dispose of it replace it with land, not buildings.

ALTERNATE USE OF RESERVE LANDS

Alternate Uses of School/Municipal Reserve Lands:

Keeping the above principles in mind it is clear that there are situations where reserve lands may be used for other purposes without adversely impacting its primary purpose. The MGA presently states that reserves can be used for school authority purposes, public recreation, open space or to separate uses (for example park buffers between high volume traffic/industrial districts and residential districts). The subcommittee felt that prior to looking at the alternative ways of using these reserves we should better define **school authority purposes**. The purpose of this is both to acknowledge the changing nature of educational delivery practices and to provide greater flexibility to school authorities in using their capital assets, i.e., their buildings.

The following is the subcommittee's redefinition:

> **"School Authority Purposes"** means a use or activity as permitted under the "School Act" and or endorsed by a School Authority, that provides education and non-instructional programs to/for students of a School Authority and includes ancillary uses or activities that are primarily intended to provide life-long learning. (Definition assumes Charter Schools are included under definition of School Authority which are not presently covered under the MGA)

The important phrase is "endorsed by a school authority". Clearly if there is an ancillary program that adds to the learning experience it should be allowed if endorsed. An example of this is a day care. This function services the community and the school purpose. A further example is a school authority may allow a probation office if it services the students. Another example could be a school authority collaborating with a post secondary institution to deliver programs in a school setting. The key is to allow a school authority to facilitate the efficient and effective use of its building over more than the traditional school day without utilizing additional land which otherwise serves as the community open space.

As a guiding point, school authorities are mandated to follow the policies of Alberta Learning and the School Act along with its regulations. A guiding policy of that department is its vision for life-long learning.

ALTERNATE USE OF RESERVE LANDS (Cont'd)

"**Life-long learning**" is the process by which people acquire and apply knowledge and skills throughout life to help them reach employment goals, enjoy a high quality of life, and be active and responsible citizens. Life-long learning begins in early childhood and continues into the senior years. Life-long learning enables Albertans to participate and contribute in an ever-changing economy and society." (Definition is based on the draft definition of Life-long Learning provided by Alberta Learning.)

P3 PROJECTS ON RESERVE LANDS

With the above definition and guiding principle in mind the subcommittee feel that the following principals should be applied to P3s and alternate uses of reserve land. For the purposes of this report P3 is defined as public – public and public – private partnerships.

1. A P3 project involving only allowable uses under the MGA may be placed on reserve land provided that the legal arrangements between the parties do not give equity interest in land to parties other than a municipality or a school authority.

2. If the intent of a P3 project is to construct a use allowed under the MGA but allow the subsequent use of the building for a use not allowed on reserve land, the reserve designation of the land can be disposed of prior to commencement of the project with the appropriate compensation to the reserve fund, but must be disposed of prior to the commencement of the not allowed use.

3. A P3 project that involves a use not allowed on reserve land can only proceed following the permanent or temporary disposition of reserve (see re-use of surplus school buildings) required accommodating the project with appropriate compensation to the reserve fund.

4. Any P3 project must comply with the Municipal Land Use By Law provisions relating to the land it occupies.

RE-USE OF SURPLUS SCHOOL BUILDINGS

The subcommittee recognizes that a key issue is and will be finding appropriate uses for closed or under utilized school buildings on reserve land. The subcommittee believes this is a different situation than allowing additional purpose-built uses on reserve land. Accordingly, the subcommittee believes that it would be appropriate to amend the MGA to allow a school authority and/or the municipality to lease reserve land containing a building for a period of time based on two principles:

- The range of uses would be controlled by the municipality under its land use bylaw.
- There should be payment into the reserve fund of a sum of money reflecting the market value of the land component of the lease.

Therefore, the subcommittee also believes that the MGA be amended to allow a school authority and/or municipality to:

1. Temporarily suspend the reserve status of a portion of a reserve parcel containing a building or a building's footprint and its support facilities (car parking etc.) for a maximum of 25 years (no automatic renewal).
2. Lease such lands at market value and building for a purpose (subject to compliance with the Land Use By Law) provided the land portion of the lease revenue is paid into the reserve fund.
3. A temporary disposition may be initiated by a school authority subject to any municipal planning approvals. For the temporary disposition of reserve land the number of notices should be reduced, there should be at least one opportunity for public hearing provided, either through the temporary disposition process or the land use planning amendment process. Proposed uses on a school building envelope must comply with the Municipal Planning By Laws.

These actions save the reserve from being lost forever but still allow for the flexibility needed to dispose of unused facilities and apply the income so generated from the building to new school projects and preservation projects.

CONCLUSION

Conclusion:

It is clear that an additional subcommittee made up of stake holders from government, notably Municipal Affairs, Infrastructure and Learning and the field, including officials and politicians from school authorities and municipalities needs to be struck to further refine the needed changes and make recommendations to the ministers involved as to what changes are needed.

In closing the subcommittee must be congratulated for their commitment to this process and their informed input.

SUBCOMMITTEE RECOMMENDATIONS

1. Accept the subcommittee's definition of "School Authority Use".

2. Accept the subcommittees definition of "life long learning".

3. The Municipal Government Act (MGA) procedure for disposition of reserve lands be revised to allow for temporary disposition of reserve land through a market value lease for 25 years. For temporary disposition of reserve land, the number of notices could be reduced, where there is at east on opportunity for public hearing provided, either through the temporary disposition process or the land use planning amendment process.

4. Ensure the definition of school authority includes charter schools

5. The use of cash in lieu of reserves and cash proceeds from the disposal of reserves in urban and urbanizing areas be clearly limited to the purchase of land. There should be greater flexibility in rural areas for the use of cash for improvements to the land including recreation facilities and structures. This flexibility for rural areas should remain.